

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1092
93RD GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, May 4, 2006, with recommendation that the Senate Committee Substitute do pass.

3221S.07C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 144.030 and 144.062, RSMo, and to enact in lieu thereof six new sections relating to tax incentives.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 144.030 and 144.062, RSMo, are repealed and six new
2 sections enacted in lieu thereof, to be known as sections 135.710, 143.114,
3 143.128, 144.030, 144.051, and 144.062, to read as follows:

135.710. 1. As used in this section, the following terms mean:

2 **(1) "Alternative fuels", any motor fuel at least seventy percent of**
3 **the volume of which consists of one or more of the following:**

4 **(a) Ethanol;**

5 **(b) Natural gas;**

6 **(c) Compressed natural gas;**

7 **(d) Liquified natural gas;**

8 **(e) Liquified petroleum gas;**

9 **(f) Any mixture of biodiesel and diesel fuel, without regard to**
10 **any use of kerosene;**

11 **(2) "Department", the department of natural resources;**

12 **(3) "Eligible applicant", a business entity that is the owner of a**
13 **qualified alternative fuel vehicle refueling property;**

14 **(4) "Qualified alternative fuel vehicle refueling property",**
15 **property in this state owned by a firm or corporation and used for**
16 **storing alternative fuels and for dispensing such alternative fuels into**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 fuel tanks of motor vehicles owned by such firm or corporation or
18 private citizens.

19 2. For all tax years beginning on or after January 1, 2007, but
20 before January 1, 2010, any eligible applicant who installs and operates
21 a qualified alternative fuel vehicle refueling property shall be allowed
22 a credit against the tax otherwise due under chapter 143, RSMo,
23 excluding withholding tax imposed by sections 143.191 to 143.265,
24 RSMo, or due under chapter 147, RSMo, or chapter 148, RSMo, for any
25 tax year in which the applicant is constructing the refueling
26 property. The credit allowed in this section per eligible applicant shall
27 not exceed the lesser of twenty thousand dollars or twenty percent of
28 the total costs directly associated with the purchase and installation of
29 any alternative fuel storage and dispensing equipment on any qualified
30 alternative fuel vehicle refueling property, which shall not include the
31 following:

32 (1) Costs associated with the purchase of land upon which to
33 place a qualified alternative fuel vehicle refueling property;

34 (2) Costs associated with the purchase of an existing qualified
35 alternative fuel vehicle refueling property; or

36 (3) Costs for the construction or purchase of any structure.

37 3. The tax credits allowed by this section shall be claimed by the
38 eligible applicant at the time such applicant files a return for the tax
39 year in which the storage and dispensing facilities were placed in
40 service at a qualified alternative fuel vehicle refueling property, and
41 shall be applied against the income tax liability imposed by chapter
42 143, RSMo, chapter 147, RSMo, or chapter 148, RSMo, after all other
43 credits provided by law have been applied. The cumulative amount of
44 tax credits which may be claimed by eligible applicants claiming all
45 credits authorized in this section shall not exceed the following
46 amounts:

47 (1) In taxable year 2007, three million dollars;

48 (2) In taxable year 2008, two million dollars; and

49 (3) In taxable year 2009, one million dollars.

50 4. If the amount of the tax credit exceeds the eligible applicant's
51 tax liability, the difference shall not be refundable. Any amount of
52 credit that an eligible applicant is prohibited by this section from
53 claiming in a taxable year may be carried forward to any of such

54 applicant's two subsequent taxable years. Tax credits allowed under
55 this section may be assigned, transferred, sold, or otherwise conveyed.

56 5. The director of revenue shall establish the procedure by which
57 the tax credits in this section may be claimed, and shall establish a
58 procedure by which the cumulative amount of tax credits is
59 apportioned equally among all eligible applicants claiming the credit.
60 To the maximum extent possible, the director of revenue shall establish
61 the procedure described in this subsection in such a manner as to
62 ensure that eligible applicants can claim all the tax credits possible up
63 to the cumulative amount of tax credits available for the taxable year.
64 No eligible applicant claiming a tax credit under this section shall be
65 liable for any interest or penalty for filing a tax return after the date
66 fixed for filing such return as a result of the apportionment procedure
67 under this subsection.

68 6. Any eligible applicant desiring to claim a tax credit under this
69 section shall submit the appropriate application for such credit with
70 the department. The application for a tax credit under this section
71 shall include any information required by the department. The
72 department shall review the applications and certify to the department
73 of revenue each eligible applicant that qualifies for the tax credit.

74 7. The department and the department of revenue may
75 promulgate rules to implement the provisions of this section. Any rule
76 or portion of a rule, as that term is defined in section 536.010, RSMo,
77 that is created under the authority delegated in this section shall
78 become effective only if it complies with and is subject to all of the
79 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
80 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
81 of the powers vested with the general assembly pursuant to chapter
82 536, RSMo, to review, to delay the effective date, or to disapprove and
83 annul a rule are subsequently held unconstitutional, then the grant of
84 rulemaking authority and any rule proposed or adopted after August
85 28, 2006, shall be invalid and void.

86 8. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

87 (1) The provisions of the new program authorized under this
88 section shall automatically sunset six years after the effective date of
89 this section unless reauthorized by an act of the general assembly; and

90 (2) If such program is reauthorized, the program authorized

91 under this section shall automatically sunset twelve years after the
92 effective date of the reauthorization of this section; and

93 (3) This section shall terminate on December thirty-first of the
94 calendar year immediately following the calendar year in which the
95 program authorized under this section is sunset.

143.114. 1. As used in this section, the following terms mean:

2 (1) "Motor vehicle", any self-propelled vehicle not operated
3 exclusively upon tracks, except farm tractors;

4 (2) "Qualified hybrid motor vehicle", any motor vehicle licensed
5 under chapter 301, RSMo, and:

6 (a) Which meets the definition of new qualified hybrid motor
7 vehicle in section 30B(d)(3)(A) of the Internal Revenue Code of 1986, as
8 amended;

9 (b) The original use of which commences with the taxpayer; and

10 (c) Which is acquired for use by the taxpayer and not for resale.

11 2. For all tax years beginning on or after January 1, 2006, any
12 taxpayer who purchases a qualified hybrid vehicle shall be allowed to
13 subtract from the taxpayer's Missouri adjusted gross income to
14 determine Missouri taxable income, for the tax year in which the
15 taxpayer purchases the vehicle, an amount equal to one thousand five
16 hundred dollars or ten percent of the purchase price of the vehicle,
17 whichever is less.

18 3. The director of revenue shall establish the procedure by which
19 the deduction in this section may be claimed, and shall promulgate
20 rules to provide for the submission of documents by the taxpayer
21 proving the purchase price and date of the qualified hybrid motor
22 vehicle and to implement the provisions of this section.

23 4. Any rule or portion of a rule, as that term is defined in section
24 536.010, RSMo, that is created under the authority delegated in this
25 section shall become effective only if it complies with and is subject to
26 all of the provisions of chapter 536, RSMo, and, if applicable, section
27 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
28 and if any of the powers vested with the general assembly pursuant to
29 chapter 536, RSMo, to review, to delay the effective date, or to
30 disapprove and annul a rule are subsequently held unconstitutional,
31 then the grant of rulemaking authority and any rule proposed or
32 adopted after August 28, 2006, shall be invalid and void.

143.128. For purposes of this section the term "E-85 gasoline" shall mean ethanol blended gasoline formulated with a minimum percentage of between seventy-five and eighty-five percent by volume of ethanol. For all tax years beginning on or after January 1, 2007, a taxpayer who purchases E-85 gasoline in a tax year shall be allowed to claim a tax credit against the tax otherwise due under this chapter, excluding sections 143.191 to 143.265, in the following amounts:

(1) For calendar year 2007, the amount of the credit shall be equal to twenty-five cents per gallon of E-85 gasoline purchased by the taxpayer;

(2) For calendar years 2008 and 2009, the amount of the credit shall be equal to twenty cents per gallon of E-85 gasoline purchased by the taxpayer;

(3) For calendar year 2010 and each subsequent calendar year, the amount of the credit shall be equal to fifteen cents per gallon of E-85 gasoline purchased by the taxpayer.

2. The amount of credits claimed per taxpayer annually shall not exceed eight hundred dollars. The minimum amount of tax credits a taxpayer may claim shall not be less than fifty dollars. A taxpayer shall claim the credit allowed by this section at the time such taxpayer files a return. The tax credit allowed under this section shall not be refundable, but may be carried forward over the next five succeeding taxable years until the full credit has been claimed. The aggregate amount of tax credits which may be redeemed in any fiscal year shall not exceed five hundred thousand dollars. The tax credit shall be available regardless of whether the taxpayer opts to take a standard deduction. The department of revenue is authorized to adopt any rule or regulations deemed necessary for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or

38 **adopted after August 28, 2006, shall be invalid and void.**

39 **3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

40 **(1) The provisions of the new program authorized under this**
41 **section shall sunset automatically six years after the effective date of**
42 **this section unless reauthorized by an act of the general assembly; and**

43 **(2) If such program is reauthorized, the program authorized**
44 **under this section shall sunset automatically twelve years after the**
45 **effective date of the reauthorization of this section; and**

46 **(3) This section shall terminate on September first of the**
47 **calendar year immediately following the calendar year in which the**
48 **program authorized under this section is sunset.**

144.030. 1. There is hereby specifically exempted from the provisions of
2 sections 144.010 to 144.525 and from the computation of the tax levied, assessed
3 or payable pursuant to sections 144.010 to 144.525 such retail sales as may be
4 made in commerce between this state and any other state of the United States,
5 or between this state and any foreign country, and any retail sale which the state
6 of Missouri is prohibited from taxing pursuant to the Constitution or laws of the
7 United States of America, and such retail sales of tangible personal property
8 which the general assembly of the state of Missouri is prohibited from taxing or
9 further taxing by the constitution of this state.

10 2. There are also specifically exempted from the provisions of the local
11 sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and
12 sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of
13 the tax levied, assessed or payable pursuant to the local sales tax law as defined
14 in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525
15 and 144.600 to 144.745:

16 (1) Motor fuel or special fuel subject to an excise tax of this state, unless
17 all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or
18 upon the sale at retail of fuel to be consumed in manufacturing or creating gas,
19 power, steam, electrical current or in furnishing water to be sold ultimately at
20 retail; or feed for livestock or poultry; or grain to be converted into foodstuffs
21 which are to be sold ultimately in processed form at retail; or seed, limestone or
22 fertilizer which is to be used for seeding, liming or fertilizing crops which when
23 harvested will be sold at retail or will be fed to livestock or poultry to be sold
24 ultimately in processed form at retail; economic poisons registered pursuant to
25 the provisions of the Missouri pesticide registration law (sections 281.220 to

26 281.310, RSMo) which are to be used in connection with the growth or production
27 of crops, fruit trees or orchards applied before, during, or after planting, the crop
28 of which when harvested will be sold at retail or will be converted into foodstuffs
29 which are to be sold ultimately in processed form at retail;

30 (2) Materials, manufactured goods, machinery and parts which when used
31 in manufacturing, processing, compounding, mining, producing or fabricating
32 become a component part or ingredient of the new personal property resulting
33 from such manufacturing, processing, compounding, mining, producing or
34 fabricating and which new personal property is intended to be sold ultimately for
35 final use or consumption; and materials, including without limitation, gases and
36 manufactured goods, including without limitation, slagging materials and
37 firebrick, which are ultimately consumed in the manufacturing process by
38 blending, reacting or interacting with or by becoming, in whole or in part,
39 component parts or ingredients of steel products intended to be sold ultimately
40 for final use or consumption;

41 (3) Materials, replacement parts and equipment purchased for use directly
42 upon, and for the repair and maintenance or manufacture of, motor vehicles,
43 watercraft, railroad rolling stock or aircraft engaged as common carriers of
44 persons or property;

45 (4) Replacement machinery, equipment, and parts and the materials and
46 supplies solely required for the installation or construction of such replacement
47 machinery, equipment, and parts, used directly in manufacturing, mining,
48 fabricating or producing a product which is intended to be sold ultimately for
49 final use or consumption; and machinery and equipment, and the materials and
50 supplies required solely for the operation, installation or construction of such
51 machinery and equipment, purchased and used to establish new, or to replace or
52 expand existing, material recovery processing plants in this state. For the
53 purposes of this subdivision, a "material recovery processing plant" means a
54 facility that has as its primary purpose the recovery of materials into a useable
55 product or a different form which is used in producing a new product and shall
56 include a facility or equipment which are used exclusively for the collection of
57 recovered materials for delivery to a material recovery processing plant but shall
58 not include motor vehicles used on highways. For purposes of this section, the
59 terms "motor vehicle" and "highway" shall have the same meaning pursuant to
60 section 301.010, RSMo. Material recovery is not the reuse of materials within a
61 manufacturing process or the use of a product previously recovered. The material

62 recovery processing plant shall qualify under the provisions of this section
63 regardless of ownership of the material being recovered;

64 (5) Machinery and equipment, and parts and the materials and supplies
65 solely required for the installation or construction of such machinery and
66 equipment, purchased and used to establish new or to expand existing
67 manufacturing, mining or fabricating plants in the state if such machinery and
68 equipment is used directly in manufacturing, mining or fabricating a product
69 which is intended to be sold ultimately for final use or consumption;

70 (6) Tangible personal property which is used exclusively in the
71 manufacturing, processing, modification or assembling of products sold to the
72 United States government or to any agency of the United States government;

73 (7) Animals or poultry used for breeding or feeding purposes;

74 (8) Newsprint, ink, computers, photosensitive paper and film, toner,
75 printing plates and other machinery, equipment, replacement parts and supplies
76 used in producing newspapers published for dissemination of news to the general
77 public;

78 (9) The rentals of films, records or any type of sound or picture
79 transcriptions for public commercial display;

80 (10) Pumping machinery and equipment used to propel products delivered
81 by pipelines engaged as common carriers;

82 (11) Railroad rolling stock for use in transporting persons or property in
83 interstate commerce and motor vehicles licensed for a gross weight of twenty-four
84 thousand pounds or more or trailers used by common carriers, as defined in
85 section 390.020, RSMo, solely in the transportation of persons or property in
86 interstate commerce;

87 (12) Electrical energy used in the actual primary manufacture, processing,
88 compounding, mining or producing of a product, or electrical energy used in the
89 actual secondary processing or fabricating of the product, or a material recovery
90 processing plant as defined in subdivision (4) of this subsection, in facilities
91 owned or leased by the taxpayer, if the total cost of electrical energy so used
92 exceeds ten percent of the total cost of production, either primary or secondary,
93 exclusive of the cost of electrical energy so used or if the raw materials used in
94 such processing contain at least twenty-five percent recovered materials as
95 defined in section 260.200, RSMo. **There shall be a rebuttable presumption**
96 **that the raw materials used in the primary manufacture of automobiles**
97 **contain at least twenty-five percent recovered materials.** For purposes

98 of this subdivision, "processing" means any mode of treatment, act or series of
99 acts performed upon materials to transform and reduce them to a different state
100 or thing, including treatment necessary to maintain or preserve such processing
101 by the producer at the production facility;

102 (13) Anodes which are used or consumed in manufacturing, processing,
103 compounding, mining, producing or fabricating and which have a useful life of
104 less than one year;

105 (14) Machinery, equipment, appliances and devices purchased or leased
106 and used solely for the purpose of preventing, abating or monitoring air pollution,
107 and materials and supplies solely required for the installation, construction or
108 reconstruction of such machinery, equipment, appliances and devices, and so
109 certified as such by the director of the department of natural resources, except
110 that any action by the director pursuant to this subdivision may be appealed to
111 the air conservation commission which may uphold or reverse such action;

112 (15) Machinery, equipment, appliances and devices purchased or leased
113 and used solely for the purpose of preventing, abating or monitoring water
114 pollution, and materials and supplies solely required for the installation,
115 construction or reconstruction of such machinery, equipment, appliances and
116 devices, and so certified as such by the director of the department of natural
117 resources, except that any action by the director pursuant to this subdivision may
118 be appealed to the Missouri clean water commission which may uphold or reverse
119 such action;

120 (16) Tangible personal property purchased by a rural water district;

121 (17) All amounts paid or charged for admission or participation or other
122 fees paid by or other charges to individuals in or for any place of amusement,
123 entertainment or recreation, games or athletic events, including museums, fairs,
124 zoos and planetariums, owned or operated by a municipality or other political
125 subdivision where all the proceeds derived therefrom benefit the municipality or
126 other political subdivision and do not inure to any private person, firm, or
127 corporation;

128 (18) All sales of insulin and prosthetic or orthopedic devices as defined on
129 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the
130 Social Security Act of 1965, including the items specified in Section 1862(a)(12)
131 of that act, and also specifically including hearing aids and hearing aid supplies
132 and all sales of drugs which may be legally dispensed by a licensed pharmacist
133 only upon a lawful prescription of a practitioner licensed to administer those

134 items, including samples and materials used to manufacture samples which may
135 be dispensed by a practitioner authorized to dispense such samples and all sales
136 of medical oxygen, home respiratory equipment and accessories, hospital beds and
137 accessories and ambulatory aids, all sales of manual and powered wheelchairs,
138 stairway lifts, Braille writers, electronic Braille equipment and, if purchased by
139 or on behalf of a person with one or more physical or mental disabilities to enable
140 them to function more independently, all sales of scooters, reading machines,
141 electronic print enlargers and magnifiers, electronic alternative and augmentative
142 communication devices, and items used solely to modify motor vehicles to permit
143 the use of such motor vehicles by individuals with disabilities or sales of
144 over-the-counter or nonprescription drugs to individuals with disabilities;

145 (19) All sales made by or to religious and charitable organizations and
146 institutions in their religious, charitable or educational functions and activities
147 and all sales made by or to all elementary and secondary schools operated at
148 public expense in their educational functions and activities;

149 (20) All sales of aircraft to common carriers for storage or for use in
150 interstate commerce and all sales made by or to not-for-profit civic, social, service
151 or fraternal organizations, including fraternal organizations which have been
152 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
153 1986 Internal Revenue Code, as amended, in their civic or charitable functions
154 and activities and all sales made to eleemosynary and penal institutions and
155 industries of the state, and all sales made to any private not-for-profit institution
156 of higher education not otherwise excluded pursuant to subdivision (19) of this
157 subsection or any institution of higher education supported by public funds, and
158 all sales made to a state relief agency in the exercise of relief functions and
159 activities;

160 (21) All ticket sales made by benevolent, scientific and educational
161 associations which are formed to foster, encourage, and promote progress and
162 improvement in the science of agriculture and in the raising and breeding of
163 animals, and by nonprofit summer theater organizations if such organizations are
164 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
165 and all admission charges and entry fees to the Missouri state fair or any fair
166 conducted by a county agricultural and mechanical society organized and
167 operated pursuant to sections 262.290 to 262.530, RSMo;

168 (22) All sales made to any private not-for-profit elementary or secondary
169 school, all sales of feed additives, medications or vaccines administered to

170 livestock or poultry in the production of food or fiber, all sales of pesticides used
171 in the production of crops, livestock or poultry for food or fiber, all sales of
172 bedding used in the production of livestock or poultry for food or fiber, all sales
173 of propane or natural gas, electricity or diesel fuel used exclusively for drying
174 agricultural crops, natural gas used in the primary manufacture or processing of
175 fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and
176 electricity used by an eligible new generation cooperative or an eligible new
177 generation processing entity as defined in section 348.432, RSMo, and all sales
178 of farm machinery and equipment, other than airplanes, motor vehicles and
179 trailers. As used in this subdivision, the term "feed additives" means tangible
180 personal property which, when mixed with feed for livestock or poultry, is to be
181 used in the feeding of livestock or poultry. As used in this subdivision, the term
182 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and
183 other assorted pesticide carriers used to improve or enhance the effect of a
184 pesticide and the foam used to mark the application of pesticides and herbicides
185 for the production of crops, livestock or poultry. As used in this subdivision, the
186 term "farm machinery and equipment" means new or used farm tractors and such
187 other new or used farm machinery and equipment and repair or replacement
188 parts thereon, and supplies and lubricants used exclusively, solely, and directly
189 for producing crops, raising and feeding livestock, fish, poultry, pheasants,
190 chukar, quail, or for producing milk for ultimate sale at retail, including field
191 drain tile, and [one-half of each purchaser's] **the purchase of [diesel] motor fuel,**
192 **as defined in section 142.800, RSMo,** therefor which is:

- 193 (a) Used exclusively for agricultural purposes;
- 194 (b) Used on land owned or leased for the purpose of producing farm
195 products; and
- 196 (c) Used directly in producing farm products to be sold ultimately in
197 processed form or otherwise at retail or in producing farm products to be fed to
198 livestock or poultry to be sold ultimately in processed form at retail;
- 199 (23) Except as otherwise provided in section 144.032, all sales of metered
200 water service, electricity, electrical current, natural, artificial or propane gas,
201 wood, coal or home heating oil for domestic use and in any city not within a
202 county, all sales of metered or unmetered water service for domestic use;
- 203 (a) "Domestic use" means that portion of metered water service,
204 electricity, electrical current, natural, artificial or propane gas, wood, coal or
205 home heating oil, and in any city not within a county, metered or unmetered

206 water service, which an individual occupant of a residential premises uses for
207 nonbusiness, noncommercial or nonindustrial purposes. Utility service through
208 a single or master meter for residential apartments or condominiums, including
209 service for common areas and facilities and vacant units, shall be deemed to be
210 for domestic use. Each seller shall establish and maintain a system whereby
211 individual purchases are determined as exempt or nonexempt;

212 (b) Regulated utility sellers shall determine whether individual purchases
213 are exempt or nonexempt based upon the seller's utility service rate
214 classifications as contained in tariffs on file with and approved by the Missouri
215 public service commission. Sales and purchases made pursuant to the rate
216 classification "residential" and sales to and purchases made by or on behalf of the
217 occupants of residential apartments or condominiums through a single or master
218 meter, including service for common areas and facilities and vacant units, shall
219 be considered as sales made for domestic use and such sales shall be exempt from
220 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
221 classified as nondomestic use. The seller's utility service rate classification and
222 the provision of service thereunder shall be conclusive as to whether or not the
223 utility must charge sales tax;

224 (c) Each person making domestic use purchases of services or property
225 and who uses any portion of the services or property so purchased for a
226 nondomestic use shall, by the fifteenth day of the fourth month following the year
227 of purchase, and without assessment, notice or demand, file a return and pay
228 sales tax on that portion of nondomestic purchases. Each person making
229 nondomestic purchases of services or property and who uses any portion of the
230 services or property so purchased for domestic use, and each person making
231 domestic purchases on behalf of occupants of residential apartments or
232 condominiums through a single or master meter, including service for common
233 areas and facilities and vacant units, under a nonresidential utility service rate
234 classification may, between the first day of the first month and the fifteenth day
235 of the fourth month following the year of purchase, apply for credit or refund to
236 the director of revenue and the director shall give credit or make refund for taxes
237 paid on the domestic use portion of the purchase. The person making such
238 purchases on behalf of occupants of residential apartments or condominiums shall
239 have standing to apply to the director of revenue for such credit or refund;

240 (24) All sales of handicraft items made by the seller or the seller's spouse
241 if the seller or the seller's spouse is at least sixty-five years of age, and if the total

gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of subsection 2 of this section;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

278 (34) All sales of grain bins for storage of grain for resale;

279 (35) All sales of feed which are developed for and used in the feeding of
280 pets owned by a commercial breeder when such sales are made to a commercial
281 breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections
282 273.325 to 273.357, RSMo;

283 (36) All purchases by a contractor on behalf of an entity located in another
284 state, provided that the entity is authorized to issue a certificate of exemption for
285 purchases to a contractor under the provisions of that state's laws. For purposes
286 of this subdivision, the term "certificate of exemption" shall mean any document
287 evidencing that the entity is exempt from sales and use taxes on purchases
288 pursuant to the laws of the state in which the entity is located. Any contractor
289 making purchases on behalf of such entity shall maintain a copy of the entity's
290 exemption certificate as evidence of the exemption. If the exemption certificate
291 issued by the exempt entity to the contractor is later determined by the director
292 of revenue to be invalid for any reason and the contractor has accepted the
293 certificate in good faith, neither the contractor or the exempt entity shall be liable
294 for the payment of any taxes, interest and penalty due as the result of use of the
295 invalid exemption certificate. Materials shall be exempt from all state and local
296 sales and use taxes when purchased by a contractor for the purpose of fabricating
297 tangible personal property which is used in fulfilling a contract for the purpose
298 of constructing, repairing or remodeling facilities for the following:

299 (a) An exempt entity located in this state, if the entity is one of those
300 entities able to issue project exemption certificates in accordance with the
301 provisions of section 144.062; or

302 (b) An exempt entity located outside the state if the exempt entity is
303 authorized to issue an exemption certificate to contractors in accordance with the
304 provisions of that state's law and the applicable provisions of this section;

305 (37) Tangible personal property purchased for use or consumption directly
306 or exclusively in research or experimentation activities performed by life science
307 companies and so certified as such by the director of the department of economic
308 development or the director's designees; except that, the total amount of
309 exemptions certified pursuant to this section shall not exceed one million three
310 hundred thousand dollars in state and local taxes per fiscal year. For purposes
311 of this subdivision, the term "life science companies" means companies whose
312 primary research activities are in agriculture, pharmaceuticals, biomedical or food
313 ingredients, and whose North American Industry Classification System (NAICS)

314 Codes fall under industry 541710 (biotech research or development laboratories),
315 621511 (medical laboratories) or 541940 (veterinary services). The exemption
316 provided by this subdivision shall expire on June 30, 2003;

317 (38) All sales or other transfers of tangible personal property to a lessor
318 who leases the property under a lease of one year or longer executed or in effect
319 at the time of the sale or other transfer to an interstate compact agency created
320 pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,
321 RSMo; [and]

322 (39) Sales of tickets to any collegiate athletic championship event that is
323 held in a facility owned or operated by a governmental authority or commission,
324 a quasi-governmental agency, a state university or college or by the state or any
325 political subdivision thereof, including a municipality, and that is played on a
326 neutral site and may reasonably be played at a site located outside the state of
327 Missouri. For purposes of this subdivision, "neutral site" means any site that is
328 not located on the campus of a conference member institution participating in the
329 event; and

330 (40) Sales of new motor vehicles designed to operate on eighty-
331 five percent ethanol fuel.

144.051. 1. In addition to the exemptions granted in section
2 144.030, there is hereby specifically exempted from the provisions of
3 any state tax levied and imposed in this chapter all sales of new motor
4 vehicles assembled and sold in the state of Missouri on or after January
5 1, 2007. For purposes of this section, "motor vehicle" means any self-
6 propelled vehicle not operated exclusively upon tracks, except farm
7 tractors. This section shall not be construed to prohibit the levy of any
8 local sales tax, as defined in section 32.085, RSMo, on any sales of new
9 motor vehicles assembled and sold in the state on or after January 1,
10 2007. In the event that any political subdivision has enacted a local
11 sales tax on such sales, the political subdivision may, by order or
12 ordinance, exempt such sales from the local sales tax law.

13 2. Any rule or portion of a rule, as that term is defined in section
14 536.010, RSMo, that is created under the authority delegated in this
15 section shall become effective only if it complies with and is subject to
16 all of the provisions of chapter 536, RSMo, and, if applicable, section
17 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
18 and if any of the powers vested with the general assembly pursuant to

19 chapter 536, RSMo, to review, to delay the effective date, or to
20 disapprove and annul a rule are subsequently held unconstitutional,
21 then the grant of rulemaking authority and any rule proposed or
22 adopted after August 28, 2006, shall be invalid and void.

144.062. 1. With respect to exempt sales at retail of tangible personal
2 property and materials for the purpose of constructing, repairing or remodeling
3 facilities for: (1) a county, other political subdivision or instrumentality thereof
4 exempt from taxation under subdivision (10) of section 39 of article III of the
5 Constitution of Missouri; or (2) an organization sales to which are exempt from
6 taxation under the provisions of subdivision (19) of subsection 2 of section
7 144.030; or (3) any institution of higher education supported by public funds or
8 any private not-for-profit institution of higher education, exempt from taxation
9 under subdivision (20) of subsection 2 of section 144.030; or (4) any private
10 not-for-profit elementary or secondary school exempt from taxation under
11 subdivision (22) of subsection 2 of section 144.030; **or (5) after June 30, 2007:**
12 **(a) the department of transportation; or (b) the state highways and**
13 **transportation commission**, hereinafter collectively referred to as exempt
14 entities, such exemptions shall be allowed for such purchases if the purchases are
15 related to the entities' exempt functions and activities. In addition, the sales
16 shall not be rendered nonexempt nor shall any material supplier or contractor be
17 obligated to pay, collect or remit sales tax with respect to such purchases made
18 by or on behalf of an exempt entity due to such purchases being billed to or paid
19 for by a contractor or the exempt entity contracting with any entity to render any
20 services in relation to such purchases, including but not limited to selection of
21 materials, ordering, pickup, delivery, approval on delivery, taking of delivery,
22 transportation, storage, assumption of risk of loss to materials or providing
23 warranties on materials as specified by contract, use of materials or other
24 purchases for construction of the building or other facility, providing labor,
25 management services, administrative services, design or technical services or
26 advice to the exempt entity, whether or not the contractor or other entity
27 exercises dominion or control in any other manner over the materials in
28 conjunction with services or labor provided to the exempt entity.

29 2. When any exempt entity contracts for the purpose of constructing,
30 repairing or remodeling facilities, and purchases of tangible personal property
31 and materials to be incorporated into or consumed in the construction of the
32 project are to be made on a tax-exempt basis, such entity shall furnish to the

33 contractor an exemption certificate authorizing such purchases for the
34 construction, repair or remodeling project. The form and content of such project
35 exemption certificate shall be approved by the director of revenue. The project
36 exemption certificate shall include but not be limited to:

- 37 (1) The exempt entity's name, address, Missouri tax identification number
38 and signature of authorized representative;
- 39 (2) The project location, description, and unique identification number;
- 40 (3) The date the contract is entered into, which is the earliest date
41 materials may be purchased for the project on a tax-exempt basis;
- 42 (4) The estimated project completion date; and
- 43 (5) The certificate expiration date.

44 Such certificate is renewable for a given project at the option of the exempt
45 entity, only for the purpose of revising the certificate expiration date as necessary
46 to complete the project.

47 3. The contractor shall furnish the certificate prescribed in subsection 2
48 of this section to all subcontractors, and any contractor purchasing materials
49 shall present such certificate to all material suppliers as authorization to
50 purchase, on behalf of the exempt entity, all tangible personal property and
51 materials to be incorporated into or consumed in the construction of that project
52 and no other on a tax-exempt basis. Such suppliers shall execute to the
53 purchasing contractor invoices bearing the name of the exempt entity and the
54 project identification number. Nothing in this section shall be deemed to exempt
55 the purchase of any construction machinery, equipment or tools used in
56 constructing, repairing or remodeling facilities for the exempt entity. All invoices
57 for all personal property and materials purchased under a project exemption
58 certificate shall be retained by the purchasing contractor for a period of five years
59 and shall be subject to audit by the director of revenue.

60 4. Any excess resalable tangible personal property or materials which
61 were purchased for the project by a contractor under a project exemption
62 certificate but which were not incorporated into or consumed in the construction
63 of the project shall either be returned to the supplier for credit or the appropriate
64 sales or use tax on such excess property or materials shall be reported on a
65 return and paid by such contractor not later than the due date of the contractor's
66 Missouri sales or use tax return following the month in which it was determined
67 that the materials were not to be used in the project.

68 5. No contractor or material supplier shall, upon audit, be required to pay

69 tax on tangible personal property and materials incorporated into or consumed
70 in the construction of the project, due to the failure of the exempt entity to revise
71 the certificate expiration date as necessary to complete any work required by the
72 contract. If it is determined that tax is owed on such property and materials due
73 to the failure of the exempt entity to revise such certificate expiration date, the
74 exempt entity shall be liable for the tax owed.

75 6. If an entity issues exemption certificates for the purchase of tangible
76 personal property and materials which are incorporated into or consumed in the
77 construction of its project and such entity is found not to have had the authority
78 granted by this section to issue such exemption certificates, then such entity shall
79 be liable for the tax owed on such personal property and materials. In addition,
80 if an entity which does have the authority granted by this section to issue
81 exemption certificates issues such certificates for the purchase of tangible
82 personal property and materials which are incorporated into or consumed in the
83 construction of a project, or part of a project, which is found not to be related to
84 such entity's exempt functions and activities, then such entity shall be liable for
85 the tax owed on such personal property and materials.

Bill ✓

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